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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.

Supreme Court of Appeals.

(Reported by West Publishing Company.)

BROWN'S GUARDIAN v. STROTHER'S ADM'R.

December 3, 1903.

WILLS—CONSTRUCTION—ESTATE DEVISED—REPUGNANT PROVISIONS—LIMITATION AFTER ABSOLUTE ESTATE.

1. Where a will provided, "I give to my brother and sister all I possess on earth for their support, to be used in no other way," the brother and sister took an absolute equitable estate, with full power to consume the same in their support; and a further provision that, if there was anything left at the death of the brother and sister, it should go to certain persons, was void for repugnancy and uncertainty.

GREEN'S ADM'R v. SOUTHERN RY. CO.

June 16, 1904.

RAILROADS—TRESSPASSER ON TRACK.

1. Where an engineer, after becoming informed of the peril to which a trespasser on defendant's track was exposed, fails to take steps to stop the train, as he could have done, thereby avoiding the accident, the railroad company is liable for the resulting injuries.

Keith, P., and Cardwell, J., dissenting.

NEWPORT NEWS PUB. CO. v. BEAUMEISTER.

June 16, 1904.

NEGLIGENCE—PRESUMPTION OF LAW—EVIDENCE—MASTER AND SERVANT—CONTRIBUTORY NEGLIGENCE.

1. The presumption of law that the instinct of self-preservation forbids the imputation of recklessness to any one can be considered only in the absence of evidence tending to show negligence.

2. Where a servant has a choice of two ways in performing his duty, one of which is perfectly safe and the other dangerous, and he voluntarily chooses the latter and is injured, he is guilty of contributory negligence, and the master is not liable—as where, with knowledge, to stop the machinery he attempts acts which are dangerous to perform while it is running.

NOTTINGHAM COAL & ICE CO. v. PREAS.

June 16, 1904.

SALES—BREACH OF CONTRACT—MEASURE OF DAMAGES.

1. Where a vendor fails to furnish the articles he has contracted to sell, the measure of damages is the difference between the contract and the market price